

Amend Section 35000(r)(3) to read:

35000      DEFINITIONS (Continued)

35000

(r)    (31) "~~Recertification~~ Reassessment" means the process by which the agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's circumstances which affect ~~eligibility for and/or~~ duration of and/or amount of adoption assistance payments.

(12) "Receiving Agency in the Independent Adoptions Program" (Continued)

(23) "Receiving Agency in the Relinquishment Adoptions Program" (Continued)

Authority cited:    Sections 10553, 10554, and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 8608, 8621, and 8901, Family Code.

Reference:          Sections 10800, 16000, 16100, 16115, 16118, 16119, 16120, 16120.1 and 16121, Welfare and Institutions Code; Sections 3014, 6500, 7002, 7601, 7602, 7610, 7611, 7612, 7660, 7661, 7662, 7663, 7664, 7665, 7666, 7669, 7802, 7807, 7808, 7820, 7821, 7822, 7823, 7824, 7825, 7826, 7827, 7828, 7829, 7890, 7892, 7893, 8502, 8503, 8506, 8509, 8512, 8515, 8518, 8521, 8524, 8527, 8530, 8533, 8539, 8542, 8545, 8600, 8706, 8714, 8714.7, 8801(b), 8802, 8817, 8909, and 9202, Family Code; Section 1502, Health and Safety Code; Sections 1502(a)(9) and (10), and 13290, Government Code; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), and (12); 42 USC 673 and 675; Section 11105(a)(2), Penal Code; and 28 CFR Section 16.31; and 45 CFR 1356.41(i).

Amend Section 35325 to read:

35325 REQUEST FOR ADOPTION ASSISTANCE (Continued)

35325

(c) The public agency responsible for determining AAP eligibility and initial and subsequent payments shall be:

(1) The ~~D~~department or the licensed county adoption agency responsible for the child or,

(2) ~~If the child is the responsibility of a licensed private adoption agency, the Department or licensed county adoption agency providing agency adoption services in the county that would provide adoption assistance benefits on behalf of the child.~~

If the child has been voluntarily relinquished for adoption to a California licensed public or private adoption agency and placed with a California prospective adoptive family, the financially responsible county shall be the county in which the relinquishing parent resides.

(A) ~~If the child has been voluntarily relinquished for adoption to a licensed private adoption agency, the financially responsible county shall be the county in which the parent who has physical custody of the child resides at the time the relinquishment document is signed.~~

(BA) (Continued)

(3) If a child is relinquished to a private adoption agency in another state and placed with a prospective adoptive family in California, the prospective adoptive family's county of residence is financially responsible. The prospective adoptive parents shall submit the completed AAP 1 and supporting documentation to the responsible public agency representing their county of residence.

(4) If a child is relinquished to a private adoption agency in California and placed with a prospective adoptive family in another state, the public child welfare agency in the adoptive parents' state of residence is responsible for determining the child's eligibility and for all AAP payments.

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(d) ~~The county responsible for providing AAP financial aid and for determining the child's Federal eligibility status is specified by Welfare and Institutions Code Section 16118(e).~~

(1) ~~Welfare and Institutions Code Section 16118(e) states:~~

~~"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time~~

~~of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for such a payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."~~

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- ~~(d)~~ (2) Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.
- (e) The responsible public agency shall determine whether the child meets the eligibility requirements as specified in Section 35326. (Continued)
- ~~(3) If the responsible public agency determines that the child is eligible for AAP benefits, the agency shall:~~
  - ~~(A) Submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county responsible for payment.~~
    - ~~1. The child's name prior to adoption (birth name) shall be used on the FC 8.~~
    - ~~2. The child's adoptive name shall not be used on the FC 8.~~
  - ~~(B) Apply for Supplemental Security Income (SSI) benefits on the child's behalf prior to the completion of an AD 4320 if:~~
    - ~~1. The FC 8 returned by the county responsible for payment indicates that the child is not eligible for the Federal AAP and;~~
    - ~~2. The child appears potentially eligible for the SSI program.~~
  - ~~(C) Determine the initial amount and duration of payment as specified in Section 35333.~~
    - ~~1. If another agency assessed the prospective adoptive family as specified in Sections 35180 through 35183.1 and/or a private adoption agency is responsible for the child, these agencies shall be consulted before the amount and duration of payment is determined.~~
  - ~~(D) Complete an Adoption Assistance Program Agreement (AD 4320) as specified in Section 35337.~~

1. ~~The AD 4320 shall be signed by the responsible public agency and the adopting parent(s) prior to the granting of the final decree of adoption.~~
  2. ~~In adoptive placements which involve more than one agency, all agencies shall sign the initial AD 4320.~~
    - (i) ~~Subsequent amendments to the AD 4320 may be signed by the responsible public agency alone.~~
  3. ~~If AAP assistance is to be provided after the adoptive placement but prior to the final decree, the AD 4320 shall be signed prior to the granting of assistance.~~
  4. ~~The child's adoptive name shall be used on the AD 4320.~~
  5. ~~If the adoptive family elects not to apply for AAP benefits, the agency shall encourage the family to sign a deferred Adoption Assistance Program Agreement (AD 4320).~~
- (E) ~~If the agency and the adoptive family are unable to agree on AAP benefits, the agency will complete the AAP 2 as described in Section 35343(b)(4)(A).~~
- (F) ~~Authorize payment as specified in Section 35341.~~

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16118, 16119, 16120, and 16121, ~~and 16121.5~~, Welfare and Institutions Code; 45 CFR 1356.40; and 42 USC 673 and 675.

Amend Section 35326 to read:

35326 AAP ELIGIBILITY

35326

- (a) ~~In order for a child to be eligible for Adoption Assistance Program (AAP) benefits, the conditions specified at Welfare and Institutions Code Section 16120 shall be met.~~

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- (1) ~~Welfare and Institutions Code Section 16120 states:~~

~~"A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) through (g) are met or if the conditions specified in subdivision (h) are met.~~

- (a) ~~The child has at least one of the following characteristics that are barriers to his or her adoption:~~

(1) ~~Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.~~

(2) ~~Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to subdivision (a) of Section 4512 including those determined to require out of home nonmedical care as defined in Welfare and Institutions Code Section 11464.~~

- (b) ~~The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.~~

- (c) ~~The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:~~

(1) ~~Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency;~~

- (2) ~~Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or~~
  - (3) ~~Committed to the department pursuant to Section 8805 or 8918 of the Family Code.~~
  - (d) ~~The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.~~
  - (e) ~~The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.~~
  - (f) ~~The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.~~
  - (g) ~~The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.~~
  - (h) ~~A child shall be eligible for Adoption Assistance Program benefits if the child received Adoption Assistance Program benefits with respect to a prior adoption and the child is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's adoptive parents died."~~
  - (2) Title 45-CFR 1356.40(e) states:
- ~~"There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments."~~

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- (b) ~~A child meeting the requirements of Welfare and Institutions Code Section 16120(h) shall be eligible for AAP benefits if subsequently adopted through either an independent adoption or an agency adoption.~~
- (c) ~~Adoption Assistance Agreements signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).~~

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- (1) ~~Welfare and Institutions Code Section 16121.05(b) states:~~

~~"(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."~~

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In order for a child to be eligible for Adoption Assistance Program (AAP) benefits, the three part special needs determination, the one of five paths to eligibility or "applicable child" criteria and the citizenship requirements specified in Welfare and Institutions Code Section 16120 shall be met.

- (a) The three-part special needs determination requires ALL of the following three conditions be met:

- (1) Evidence in the file that the child cannot or should not be returned to the home of his or her parents.

(A) Sufficient evidence includes a petition to terminate parental rights, a court order terminating parental rights, a signed relinquishment or a tribal customary adoption order.

- (2) A specific factor or condition makes it reasonable to conclude that the child cannot be adopted without providing AAP payments.

(A) Factors or conditions include a child's ethnic background, age or membership in a minority or sibling group, the presence of a medical condition, or physical, mental or emotional disabilities.

- (3) An effort to place the child for adoption with appropriate parents without providing adoption assistance unless it is against the best interest of the child.

(A) This search for adoptive parents shall be documented in the adoption case record and include the following:

1. A discussion of potential adoptive parents at a regional adoption agency exchange meeting, or
2. Registration of the child with the department's photo-listing album.

(B) A child who develops significant emotional ties with the prospective adoptive parents while in their care as a foster child or if a relative is adopting a child.

then it would be in the child's best interest to remain with them and additional efforts to place the child are not required.

1. This search shall not be required when the current foster parents, or other persons with whom the child has been living and has established significant emotional ties, have both:
  - a. Expressed interest in adopting the child, and
  - b. Been determined by the agency to be suitable adoptive parents for the child.

(b) One of the following five paths to eligibility must be met:

(1) At the time the child was removed from the home of a specified relative, the child would have been Aid to Families with Dependent Children (AFDC)-eligible in the home of removal according to July 16, 1996 AFDC standards.

(A) In an involuntary situation, when a child's removal from the home is the result of a court action, there must also be a judicial determination that to remain in the home would be contrary to the child's welfare.

1. The determination must be made in the first court ruling (minute order) that sanctions (even temporarily) the removal.
2. The "contrary to the welfare" finding must be explicit in the first court order.

(B) For children voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state (Tribes), the following must be obtained within six months of the time the child lived with a specified relative:

1. A petition to the court to remove the child from the home of a the specified relative within six months of the date the child lived with the relative; and
2. Subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(C) In the case of a voluntary placement agreement between the child's parent/legal guardian and the county agency, at least one Title IV-E foster care maintenance payment must have been made on behalf of the child.

(D) A child shall be eligible for state-only funding if the child was at risk of dependency at the time of relinquishment or removal from the home of the

specified relative and the at risk of dependency finding is documented by the placing agency and certified by the responsible public child welfare agency.

- (2) At least one Title IV-E foster care maintenance payment has been made on behalf of the child's minor parent to cover the cost of the minor parent's child while in the foster parent's home or child care institution with the minor parent.
  - (3) A child received AAP benefits with respect to a prior adoption, the prior adoption dissolved, and the child is again available for adoption. To remain eligible the child must meet the following:
    - (A) Three part special needs determination
    - (B) Citizenship requirements
  - (4) Prior to the finalization of an agency adoption or an independent adoption, the child has met the requirements to receive federal Supplemental Security Income (SSI) benefits as determined and documented by the federal Social Security Administration (SSA).
  - (5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Welfare and Institutions Code Section 366.24.
- (c) An "applicable child" is a child who:
- (1) Meets the applicable age requirement anytime before the end of the Federal Fiscal Year (FFY); or
  - (2) Has been in foster care for at least 60 consecutive months, or
  - (3) Is a sibling of an "applicable child," if both are placed in the same prospective adoptive home.
- (d) To be eligible for Title IV-E funding, the "applicable child" must meet one of the four paths to eligibility:
- (1) The child is in the care of a public or private child placement agency or Indian tribal organization and is the subject of either one of the following:
    - (A) An involuntary removal from the home in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child;
    - (B) A voluntary placement agreement or voluntary relinquishment.

1. A Title IV-E foster care maintenance payment does not have to be made on behalf of an "applicable child," or
  2. Judicial determination that continuation in the home would be contrary to the welfare of the child.
- (2) The child has met all medical or disability eligibility requirements for federal supplemental security income (SSI) benefits.
- (3) The child was residing in a foster family home or child care institution with the child's minor parent.
- (4) The child received AAP with respect to a prior adoption that dissolved.
- (e) Beginning with FFY 2010, children for whom an adoption assistance agreement is entered into during any FFY below and that child has attained the age for that FFY before the end of that FFY is considered to be an "applicable child":
  - (1) In FFY 2010, the applicable age is 16 years.
  - (2) In FFY 2011, the applicable age is 14 years.
  - (3) In FFY 2012, the applicable age is 12 years.
  - (4) In FFY 2013, the applicable age is 10 years.
  - (5) In FFY 2014, the applicable age is 8 years.
  - (6) In FFY 2015, the applicable age is 6 years.
  - (7) In FFY 2016, the applicable age is 4 years.
  - (8) In FFY 2017, the applicable age is 2 years.
- (f) To receive AAP, the child must be a United States citizen or a qualified alien as defined in Title 8 USC section 1641(b).
  - (1) If a child is placed with an unqualified alien, the child must be a qualified alien or have lived in the U.S. for five years, if the child entered the United States on or after August 22, 1996.
  - (2) The child is exempt from the five year residency requirement if the child is placed with a U.S. citizen or qualified alien, or the child is a member of one of the excepted groups pursuant to Title 8 USC section 1612(b): refugees, asylees, aliens whose deportation is withheld, veterans and those on active duty (as well as the spouse and

unmarried dependent children of that person), Cuban or Haitian entrants and Amerasians from Vietnam.

(3) If a child is an unqualified alien and placed outside the United States, the county may use county funds to cover the AAP costs for an otherwise AAP eligible child.

(g) There shall be no means test used to determine AAP eligibility.

(h) There shall be no final approval for an adoptive placement in which the prospective adoptive parent or any adult living in the prospective adoptive home has been convicted of one of the following:

(1) A felony for child abuse or neglect, spousal abuse, crimes against the child, including child pornography, or for a crime of violence including rape, sexual assault, or homicide, but not other physical assault and battery.

(2) A felony that occurred within the past five years for physical assault, battery or a drug or alcohol related offense.

Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16118, 16119, 16120, and 16121.05, Welfare and Institutions Code; and 42 USC 671 and 673.

Repeal Section 35327 to read:

35327      SEARCH FOR PARENTS NOT REQUIRING ADOPTION ASSISTANCE      35327

- (a) ~~Prior to the selection of adoptive parents requiring adoption assistance payments, the agency shall seek adoptive parents who do not require such assistance.~~
- (1) ~~This search for adoptive parents shall be documented in the adoption case record and shall include the following:~~
- (A) ~~Discussion of potential adoptive parents at a regional adoption agency exchange meeting, or~~
- (B) ~~Registration of the child with the department's photo listing album.~~
- (2) ~~This search shall not be required when the current foster parents, or other persons with whom the child has been living and has established significant emotional ties, have both:~~
- (A) ~~Expressed interest in adopting the child, and~~
- (B) ~~Been determined by the agency to be suitable adoptive parents for the child.~~

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Sections 16118 and 16120, Welfare and Institutions Code; 42 USC 671 and 673.

Amend Section 35329 to read:

35329 EFFECT OF ADOPTIVE PARENT'S LEGAL RESIDENCE

35329

- (a) The adoptive parent's legal residence shall not affect the child's eligibility specified by Welfare and Institutions Code Section 16121.1.

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- ~~(1) Welfare and Institutions Code Section 16121.1 states:~~

~~"Welfare and Institutions Code Section 16121.1: Notwithstanding the provisions of Section 11105, the residence of the adoptive parents at the time of or subsequent to adoptive placement shall not terminate the eligibility of a child who is otherwise eligible for adoptive assistance payments."~~

~~HANDBOOK ENDS HERE~~

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections 16118, ~~and~~ 16120, and 16121.1, Welfare and Institutions Code; and 42 USC 671 and 673.

Amend Section 35331 to read:

35331      DOCUMENTATION OF CHILD'S ELIGIBILITY

35331

- (a) The determination of the child's eligibility for adoption assistance shall be documented in the case record on the Eligibility Certification -Adoption Assistance Program form (AAP 4) and the Federal Eligibility Certification for Adoption Assistance Program (FC 8).

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Sections 16118 and 16120, Welfare and Institutions Code and 42 USC Sections 671 and 673.

Amend Section 35333 to read:

35333      DETERMINATION OF AMOUNT AND DURATION OF AAP  
BENEFIT FOR ALL CHILDREN

35333

The Adoption Assistance Program (AAP) provides benefits to facilitate the adoption of children who otherwise would not likely be adopted. The AAP benefit is a negotiated amount based upon the needs of the child and the circumstances of the adoptive family. The responsible public agency and the prospective adoptive parent(s) shall negotiate and agree on the amount of the AAP benefit ~~and make the final determination of the amount~~ according to the requirements of this section.

- (a) ~~No agency may use an income eligibility requirement (income means test) in determining the AAP benefit.~~

The responsible public agency shall make a good faith effort to negotiate the AAP benefit with the adoptive parents.

- (1) The agency shall encourage the adoptive parents to request the AAP benefit they require in order to meet the child's needs taking into account their family circumstances.

- (2) The agency shall base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents.

- (A) The agency shall advise the adoptive parents that the amount of the AAP benefit determined for the child is limited to the age-related, state-approved foster family home rate and any applicable state-approved specialized care increment for which the child is eligible.

- (3) There shall be no use of a means test when determining the AAP benefit amount.

- (4) The amount of the negotiated AAP benefit shall be between zero and the maximum AAP benefit for which the child is eligible.

- (5) The agency shall advise the adoptive parents that the AAP benefit does not include payment for any specific good or service, but is intended to assist the adoptive parents in meeting the child's needs.

- (b) ~~The responsible public agency shall assess the child's needs.~~

- ~~(1) The agency, after consultation with the adoptive parents and the financially responsible county, if different from the agency, shall identify the child's care and supervision needs, including any special needs beyond basic care and supervision, for which a foster care maintenance payment would be authorized.~~

- (1) ~~(A)~~ The adoption caseworker shall base the assessment of the child's needs and required level of care and supervision on all of the following information:

(A) ~~1.~~ Direct observation of the child.

(B) ~~2.~~ Information contained in the child's case record, including birth history and psychological, medical and other relevant assessments completed by licensed professionals.

(C) ~~3.~~ Information about the child based on application of the county's foster care specialized care assessment instrument or any specialized foster care increment previously approved for the child.

(D) ~~4.~~ Information provided by the adoptive parents.

- (c) The responsible public agency ~~shall determine the maximum AAP benefit for which the child is eligible.~~

- ~~(1) Step 1: The agency in consultation with the financially responsible county, if different from the agency, shall determine the state-approved foster care maintenance payment that the child would have received in a foster family home if the child had remained in foster care.~~

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~~(A) A child in a foster family home receives a maintenance payment limited to the age related, state approved foster family home care rate and any applicable state approved specialized care increment for which the child is eligible.~~

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- (1) ~~1.~~ No agency may use a Foster Family Agency (FFA) treatment rate or a payment made to a certified home by a FFA on behalf of the child for purposes of calculating the maximum AAP benefit for which the child is eligible.

(A) If a child continues to require the additional services provided by the FFA. The placement should continue as an FFA placement funded by foster care payments rather than by AAP benefits.

- (2) ~~(B)~~ If the child is living in the adoptive family's home, the agency shall assume that, but for adoptive placement, the child would be living in a licensed foster family home.

(A) ~~1.~~ If the child is placed for adoption within the financially responsible county, the AAP benefit shall ~~be based on the child's foster care maintenance~~

~~payment~~, not to exceed the age-related, state-approved foster family home care rate, for which the child would otherwise be eligible.

(B) ~~2.~~ If the child is placed for adoption in California but outside the financially responsible county, the AAP benefit shall ~~be based on the foster care maintenance payment~~, not to exceed the age-related, state-approved foster family home care rate of the financially responsible county or that of the host county, whichever is higher, for which the child would otherwise be eligible.

(C) ~~3.~~ If the child is placed for adoption outside California, the AAP benefit shall ~~be based on the foster care maintenance payment~~, not to exceed the applicable California age-related, state-approved foster family home care rate or the applicable rate in the host state, whichever is higher, for which the child would otherwise be eligible.

(D) ~~4.~~ If the child also has any special needs which would qualify him or her for a specialized care increment (SCI), the AAP benefit shall include the applicable state-approved ~~specialized care increment~~ SCI in addition to the ~~foster care maintenance payment, based on the rate described in Section 35333(e)(1)(B) 1., 2., or 3~~ age-related, state-approved foster family home rate.

~~1.~~ ~~a.~~ If the child requires a benefit based on a special need in addition to age-related ~~basic care~~ state-approved foster family home rate, the agency shall document each special need by describing the need including the underlying problem or condition.

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~~b.~~ ~~Specialized care provides a supplemental payment to a family home caregiver, in addition to the basic family home care rate, for the cost of supervision (and the cost of providing that supervision) to meet the additional daily care needs of a child who has a health or behavior problem.~~

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~~2.~~ Specialized care provides a supplemental payment to a caregiver, in addition to the state-approved foster family home care rate, for the cost of supervision (and the cost of providing that supervision) to meet the additional daily care needs of a child who has a health or behavior problem.

~~3.~~ ~~e.~~ If the child is placed for adoption outside the financially responsible county, the agency shall use the specialized care rate of the host county or that of the financially responsible county, whichever is

higher, or that of the financially responsible county when the host county has no specialized care system.

- (3) ~~(C)~~ If the child is a client of a California Regional Center (CRC) for the Developmentally Disabled, the maximum rate shall be ~~the foster family home rate formally determined for the child by the Regional Center using the facility rates established by the California Department of Developmental Services. CRC clients pursuant to Welfare and Institutions Code Section 16121(c). Dual agency children who leave California shall be able to continue to receive AAP benefits based on the most recent level of need assessed by the CRC reflected in the last AAP agreement signed prior to leaving California.~~
- (4) ~~(D)~~ If the child is temporarily living away from the adoptive home and the AAP benefit is not authorized under Section 35334(a) or Section 35334(c), the agency shall consider the child to be living in the adoptive home ~~when the eligibility requirements of Section 35326 continue to be met.~~
- (2) ~~Step 2: The agency shall determine the amount of income received by or on behalf of the child:~~

  - ~~(A) The agency shall consider income including, but not limited to, SSI/SSP, Social Security benefits based on the earnings of a birth parent, or available income from an inheritance or a trust fund derived from assets of a birth parent or his or her relatives or created on behalf of the child as a result of a lawsuit or insurance settlement.~~
- ~~(3) Step 3: The agency shall calculate the maximum AAP benefit for which the child is eligible by subtracting the child's income identified according to Section 35333(c)(2) from the sum of the age-related, state-approved foster family home care rate identified according to Section 35333(c)(1) and any applicable state-approved specialized care increment. This remaining amount is the maximum AAP benefit available for the child.~~
- (d) ~~The responsible public agency shall determine the circumstances of the family.~~

  - ~~(1) Corroborating documentation shall be unnecessary when the adoptive parents attest to the following information requested by the agency:~~
  - ~~(5) (A) A~~ The adoptive parents shall provide a written statement ~~from the adoptive parents on the form AAP 1~~ explaining how they plan to incorporate the adoptive child into their family and the impact, if any, on their family's lifestyle and circumstances.
  - ~~(6) (B)~~ "Circumstances of the Family" means circumstances of the family as defined in Welfare and Institutions Code Section 16119(d)(2).

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1. ~~Welfare and Institutions Code Section 16119(d)(2) states:~~

~~"For purposes of paragraph (1), "circumstances of the family" includes the family's ability to incorporate the child into the household in relation to the lifestyle, standard of living, and future plans and to the overall capacity to meet the immediate and future plans and needs, including education, of the child."~~

2. ~~The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living or future plans.~~

#### **HANDBOOK ENDS HERE**

- (A) The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living, or future plans.

- (e) ~~The responsible public agency shall negotiate the amount of any AAP benefit with the adoptive family. For purposes of negotiation, the agency shall follow the legislative intent expressed in Welfare and Institutions Code Section 16115.5 and the requirements in Welfare and Institutions Code Section 16119(d)(1).~~

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- (1) (A) ~~Welfare and Institutions Code Section 16115.5 states:~~

~~"It is the intent of the Legislature in enacting this chapter to benefit children residing in foster homes by providing the stability and security of permanent homes and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of children who meet the criteria established in Section 16116, 16120 and 16121."~~

- (B) ~~Welfare and Institutions Code Section 16119(d)(1) states:~~

~~"The amount of an adoption assistance cash benefit, if any, shall be a negotiated amount based upon the needs of the child and the circumstances of the family. There shall be no means test used to determine an adoptive family's eligibility for the Adoption Assistance Program. In those instances where an otherwise eligible child does not require a cash benefit, Medi-Cal eligibility may be established for the child as needed."~~

#### **HANDBOOK ENDS HERE**

- (2) ~~The agency shall make a good faith effort to negotiate the AAP benefit with the adoptive parents.~~

- ~~(3) The agency shall encourage the adoptive parents to request the AAP benefit they require in order to meet the child's needs taking into account their family circumstances.~~
- ~~(4) The agency shall base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents.~~
  - ~~(A) The agency shall advise the adoptive parents that the amount of the AAP benefit determined for the child is limited to the age-related, state-approved foster family home care rate and any applicable state-approved specialized care increment for which the child would have been eligible had he or she remained in foster care.~~
- (d) ~~(5)~~ The agency shall include in the child's AAP file a written summary of the negotiations and discussions with the adoptive parents.
  - (1) ~~(A)~~ When only age-related basic care state-approved foster family home rate is requested by the family, the agency shall include a statement to that effect for retention in the child's AAP file.
  - ~~(6) The amount of the negotiated AAP benefit shall be between zero and the maximum AAP benefit for which the child is eligible as identified according to Section 35333(e)(3).~~
    - ~~(A) The agency shall advise the adoptive parents that the AAP benefit does not include payment for any specific good or service, but is intended to assist the adoptive parents in meeting the child's needs.~~
  - ~~(7) At the conclusion of negotiations, if agreement on the AAP benefit has been reached, the agency shall authorize payment of the AAP benefit in the agreed amount.~~
- (fe) When agreement on the AAP benefit has been reached, the responsible public agency shall complete an Adoption Assistance Agreement (AD 4320) with the adoptive parents.
  - (1) The agency shall complete the AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the AAP benefit is approved.
  - (2) After completion of the Adoption Assistance Agreement (AD 4320), the adoptive parents shall have the right to use the AAP benefit to meet the child's needs as they deem appropriate without further agency approval.
- (gf) When the responsible public agency and the adoptive parents are unable to agree on an AAP benefit, the agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action that the requested AAP benefit is denied. The agency shall specify the reason for denial.

**HANDBOOK BEGINS HERE**

- (1) ~~If the adoptive parent does not agree on the AAP benefit, the parent may request a state hearing as instructed in the Notice of Action pursuant to MPP Section 22-004.~~

**HANDBOOK ENDS HERE**

- (1) If the adoptive parent does not agree on the AAP benefit, the parent may request a state hearing as instructed in the Notice of Action pursuant to MPP Section 22-004.
- (hg) A reassessment of the AAP benefit shall be required every two (2) years beginning from the date of a signed Adoption Assistance Program Agreement (AD 4320) between the agency and the adoptive parents.
- (1) ~~The AAP benefit shall be increased automatically at the same time and to the same degree as any automatic adjustments to payments for state approved basic foster care maintenance.~~  
Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless one of the following occurs:
- (A) The child has attained the age of 18 or 21;
- (2) 1. Payment of the AAP benefit shall terminate in the month in which the child becomes 18 years of age or if the agency has determined that the child has a mental or physical disability that warrants the continuance of assistance, in the month in which the child becomes 21 years of age.
- (B) The adoptive parents are no longer legally responsible for the support of the child.
- (C) The responsible public agency determines the adoptive parents are no longer providing support to the child.

Authority cited: Sections 10553, 10554, 14023, and 16118, Welfare and Institutions Code.

Reference: Sections 15115.5, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

Amend Section 35334 to read:

35334      ~~DETERMINATION OF AMOUNT AND DURATION OF AAP~~      35334  
~~BENEFITS FOR A CHILD IN A TEMPORARY OUT-OF-HOME~~  
~~PLACEMENT~~

(a) The responsible public agency shall ~~determine~~ confirm the amount and duration of the AAP benefit when the child is placed, either on a voluntary basis or as a court dependent, in out-of-home care to treat a condition that the agency has determined to have existed before the adoptive placement. (Continued)

(2) The agency shall determine the maximum AAP benefit for which the child is eligible for out-of-home placement. (Continued)

(B) If the placement cost is paid by another agency (e.g., county welfare department, probation office, regional center), the available AAP benefit shall be either the age-related, state-approved ~~basic~~ foster family home care rate or the adoptive parent's actual share of cost for support of the child, whichever is greater, but not to exceed the foster family home rate as determined under Section 35333(c)(1).

1. The maximum share of cost is the state-approved foster family home rate, eligible SCI rate or dual agency rate, and any applicable supplemental rate the child would have received had they remained in foster care.

~~HANDBOOK BEGINS HERE~~

~~1. Under Title 2 California Code of Regulations Section 60020(c), the county financially responsible for making AAP payments is responsible for the provision of mental health assessments and mental health services.~~

~~HANDBOOK ENDS HERE~~

2. Under Title 2 California Code of Regulations Section 60020(c), the county financially responsible for making AAP payments is responsible for the provision of mental health assessments and mental health services.

(3) (Continued)

(e) When the responsible public agency and the adoptive parents agree on the AAP benefit, the agency shall complete an Adoption Assistance Program Agreement (AD 4320) with the adoptive parents.

- (1) The agency shall state in the agreement that the AAP benefit is intended for the child's out-of-home placement not to exceed 18 months.
  - (A) The adoptive parent(s) may request the financially-responsible public agency to pay the facility directly using the child's eligible AAP funds, or the adoptive parents may request the AAP check continue to be sent to them to pay the facility.
- (2) The agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action indicating that the AAP benefit is approved. (Continued)

Authority cited: Sections 10553, 10554, ~~14023~~, and 16118(a), Welfare and Institutions Code.

Reference: Sections 15115.5, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 42 USC 673.

Amend Section 35337 to read:

35337      CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT      35337

(a) The Adoption Assistance Program Agreement form (AD 4320) shall contain the following:  
(Continued)

(2) The amount and duration of financial assistance.

(A) The agreement is effective until terminated in accordance with its terms or a new amended agreement is signed.

(B) The AD 4320 shall be signed by the responsible public agency and the adopting parent(s) prior to the granting of the final decree of adoption.

(C) In adoptive placements which involve more than one agency, all agencies shall sign the initial AD 4320.

1. Subsequent amendments to the AD 4320 shall be signed by the responsible public agency and adoptive parent(s).

~~(3) The specific needs for which payments are being authorized.~~

~~(4) That the existence of a characteristic that is a barrier to the child's adoption without subsidy has been confirmed by the agency.~~

~~(5) That, until termination of financial assistance, the adoptive parents shall notify the child's agency immediately regarding the following:~~

~~(A) A change in their mailing address on record with the agency.~~

~~(B) The child begins to receive unearned income as specified at Section 35333(c)(2)(A).~~

~~(C) They are no longer responsible for the support of the child.~~

~~(D) They are no longer supporting the child.~~

(3) The AAP benefit will continue unless one of the following occurs:

(A) The child has attained the age of 18 or 21.

(B) The adoptive parents are no longer legally responsible for the support of the child.

- (C) The responsible public agency determines the adoptive parents are no longer providing any type of support to the child.
- (4) It is the adoptive parent's responsibility to inform the responsible public agency immediately if any of the following occurs:
  - (A) Change in mailing address and/or state of residence.
  - (B) The child is no longer residing in the family home.
  - (C) The adoptive parents are no longer providing any type of support to the child.
  - (D) The adoptive parents are no longer legally responsible for the support of the child.
- (5) If a needed service is not available in the state of residence, the financial responsible county of origin remains financially responsible for the needed services.
- (6) Upon the child's eighteenth birthday, the adoptive parents are to inform the responsible public agency and request an evaluation of child's needs for continuation of benefits beyond the age of 18.
- (7) If the child is a current consumer of California Regional Center (CRC) services, the maximum available AAP benefit is \$3006. CRC consumers who have received an AAP benefit prior to July 2007, which exceeds the maximum \$3006 rate, may continue to receive the higher rate until the child is no longer eligible for AAP benefits or the adoption is dissolved.
  - (A) If the child is under the age of three and receiving services under the California Early Intervention Services Act, but not yet determined by the CRC to have a developmental disability as defined by the Lanterman Act the maximum AAP benefit is \$898. It is the adoptive parents' responsibility to request the CRC to evaluate the child's eligibility for CRC services and notify the responsible public agency if the child is eligible and receiving CRC services.
- (8) Initial AAP agreements signed on or after January 1, 2010 will no longer be eligible to receive an AAP age-related increase.
  - (A) Initial AAP agreements signed prior to January 1, 2010 will still be eligible to receive the AAP age-related increase upon request.
  - (B) Initial Adoption Assistance Agreements signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

(69) (Continued)

(~~7~~10)(Continued)

(~~8~~11)(Continued)

(~~9~~) ~~That the AAP benefit may be reduced if the child receives other unearned income as specified in Section 35333(c)(2)(A).~~

(~~10~~2)(Continued)

(~~14~~3)(Continued).

(~~12~~4)(Continued)

(~~13~~5)(Continued)

(~~14~~6)(Continued)

Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: 42 USC 673, 695; 45 CFR 1356.40; Sections 14051, 16119, 16120, 16120.05, 16121 and 16121.05, Welfare and Institutions Code.

Amend Section 35339 to read:

35339      DEFERRED PAYMENT OF AAP

35339

- (a) ~~When the effective date of payment is not known because a child has a mental, physical, medical or emotional condition which~~ otherwise eligible for AAP does not require current benefits but which could require future benefits, the Adoption Assistance Program Agreement form (AD 4320) shall indicate that the family may request benefits ~~to meet needs associated with the condition~~ at an unspecified future date.
- (1) ~~The existence of a condition which does not require current benefits shall be certified by a licensed professional competent to make an assessment of the condition and operating within the scope of his or her profession.~~
- (2) ~~A history which is likely to lead to a future mental, physical, medical or emotional condition shall be considered as such a condition.~~
- (31) (Continued)
- (42) (Continued)

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code; Section 1530, Health and Safety Code.

Reference: Sections 16118, 16119, 16120, 16121, and 16121.05, Welfare and Institutions Code; 42 USC Sections 673 and 675.

Amend Section 35341 to read:

35341 PROCEDURES FOR INITIATION OF PAYMENT

35341

- (a) The responsible public agency shall provide the county responsible for payment with information necessary to allow the county to issue AAP payments and authorize the issuance of Medi-Cal cards. (Continued)
- (2) When the beginning date of payment is known, the agency shall complete and send the following forms to the county: (Continued)
  - (C) ~~If a Medi-Cal eligible child is enrolled in private health coverage, a Health Insurance Questionnaire (DHS 6155) and~~
  - (D) Income and Property Checklist for Federal Eligibility Determination – Adoption Assistance Program (FC 10).
    - 1. The FC 10 form is to be used only for the purposes of determining AFDC eligibility in the home of removal.
- (3) The child's adoptive name shall be used on the AAP 2, AAP 4, and FC 10 and all related correspondence with the county.

~~HANDBOOK BEGINS HERE~~

- (A) ~~The AAP 2 initially triggers the creation of a new county payment case record that, for reasons of confidentiality, must in no way identify former county case records, names or numbers.~~
- 1. ~~Welfare and Institutions Code Section 16118(e) is located at Section 35325(d)(1).~~

~~HANDBOOK ENDS HERE~~

- (A) The AAP 2 requires the creation of a new county payment case record.

- (b) Upon receipt of the AAP 2, the county shall issue payments as instructed.

~~HANDBOOK BEGINS HERE~~

- (1) ~~Eligibility and Assistance Standards (EAS) 45-804.322 states: "EAS 45-804.322: The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives the Payment Instructions – Adoption Assistance Program form (AAP 2) from the agency authorizing payment."~~

~~HANDBOOK ENDS HERE~~

- (1) The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date the county receives the Payment Instructions – Adoption Assistance Program form (AAP 2) from the agency authorizing payment.

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Section 16118 and 16120, Welfare and Institutions Code and 42 USC 673.

Amend Section 35343 to read:

35343      PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS      35343

- (a) A reassessment process shall be completed by the responsible public agency which authorized the initial payment ~~either unless one of the following is met:~~
- ~~(1) During the 90 day period prior to the end of each payment authorization period specified in Section 35333(h).~~
    - ~~(A) The process shall not be completed if the child is no longer eligible due to age.~~
  - ~~(2) Prior to the 90 day period at the request of the adoptive parent or if the agency learns that the current AAP grant may no longer be appropriate because:~~
    - ~~(A) The adoptive parents may no longer be legally responsible for the support of the child.~~
    - ~~(B) The adoptive parents may no longer be supporting the child.~~
    - ~~(C) The adoption assistance benefit may exceed the amount for which the child would have been eligible in a licensed foster family home.~~
  - (1) The child has attained the age of 18 or 21;
  - (2) The adoptive parents are no longer legally responsible for the support of the child.
  - (3) The responsible public agency determines the adoptive parents are no longer providing support to the child.
- (b) The reassessment process shall include the following steps:
- (1) The county responsible for payment shall mail the adoptive parent(s) the Reassessment Information Adoption Assistance Program form (AAP 3) ~~as specified in CDSS Manual of Policies and Procedures, Eligibility and Assistance Standards Section 45-805.1~~ at least 60, and not more than 90, calendar days prior to the date the reassessment is due and shall document in the case record the date such form was mailed.

HANDBOOK BEGINS HERE

- ~~(A) MPP Section 45-805.1 states: "EAS 45-805.1: The county shall mail the adoptive parent(s) the Recertification Information Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior~~

~~to the date recertification is due and shall document in the case record the date such form was mailed."~~

~~HANDBOOK ENDS HERE~~

- (~~BA~~) The adoptive parent(s) shall return the AAP 3 to the responsible public agency which authorized the initial payment.
1. If the family does not submit a completed AAP 3 from, AAP must continue at the same rate reflected on the last AAP agreement and Payment Instructions (AAP 2) form.
- (2) ~~After~~ If the responsible public adoption agency receives the completed AAP 3 from the adoptive parents, the agency shall ~~determine the procedure, as listed below, to follow in order to complete the reassessment process as follows:~~
- (A) (Continued)
- (B) If the adoptive parents select box 2 on the AAP 3 indicating they request the AAP benefit to continue ~~at the current level~~, the agency shall ~~complete and send a~~ pay the same rate reflected on the last AAP agreement and Payment Instructions Adoption Assistance Program (AAP 2) form to the county within five working days of completing the reassessment process.

~~HANDBOOK BEGINS HERE~~

1. ~~MPP Section 45-805.3 states: "EAS 45-805.3: The county shall not provide assistance beyond the end of the last month of payment indicated on the Payment Instructions Adoption Assistance Program form (AAP 2) unless continued assistance is authorized by the agency on a subsequent AAP 2."~~

~~HANDBOOK ENDS HERE~~

- (C) If the adoptive parents select box 3 requesting an increase in the amount of the AAP benefit, the adoptive parents shall provide written documentation of the child's special needs justifying the increase. ~~This documentation must be sufficient so as to assist the agency in determining whether or not the increase is warranted.~~ The agency may require additional information as necessary.
1. The agency shall base the reassessment of the child's needs and required level of care and supervision on the following information:  
(Continued)
- c. Circumstances of the family.

2. The responsible public agency shall follow the procedures in Section 35333(e) in determining the new maximum AAP benefit amount.
3. If the agency determines that a change in the amount of payment appears appropriate, the adoptive parents' concurrence shall be obtained prior to changing the amount of payment.
  - a. The adoptive parents' concurrence is not required ~~by law~~ if the payment amount is changed to prevent the payment from exceeding the maximum ~~payment amount specified in Section 35333(e)(1)~~ foster care maintenance payment that would have been paid had the child remained in foster care.
4. The responsible public agency and the adoptive parents shall complete an amended AD 4320 ~~which indicates that the agreement is an amendment to the initial AD 4320~~ to reflect the change in the amount of AAP benefit.
  - a. (Continued)

**HANDBOOK BEGINS HERE**

- b. ~~If the adoptive parent does not agree with the change in the AAP benefits, the parent may request a state hearing as instructed on the Notice of Action pursuant to MPP Section 22-004.~~

**HANDBOOK ENDS HERE**

5. (Continued)

**HANDBOOK BEGINS HERE**

- a. ~~MPP Section 45 805.3 states: "EAS 45 805.3: The county shall not provide assistance beyond the end of the last month of payment indicated on the Payment Instructions — Adoption Assistance Program form (AAP 2) unless continued assistance is authorized by the agency on a subsequent AAP 2."~~

**HANDBOOK ENDS HERE**

- (D) If the adoptive parents select box 4 requesting a decrease in the amount of the AAP benefit, the agency and the adoptive parents shall complete an amended AD 4320 ~~which indicates that the agreement is an amendment to the initial AD 4320~~ to reflect the change in benefit amount.

1. (Continued)

- (E) ~~If the adoptive family fails to return the AAP 3 within the 90 days before the end of the payment authorization period, the agency shall conclude that the family does not want to continue receiving assistance.~~
1. ~~If the family returns the AAP 3 within 30 days after the expiration of the 90-day period, the effective date of renewal shall be the last day of the 90-day period.~~
2. ~~If the family takes more than 30 days after the expiration of the 90-day period to return the AAP 3, the effective date of renewal shall be the date on which assistance was requested in writing.~~
- (3) ~~The agency shall complete and send a Health Insurance Questionnaire (DHS) 6155 if the child is Medi-Cal eligible and has private health coverage.~~

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16120, 16121 and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; and 42 USC 673.

Amend Section 35344 to read:

35344      PROCEDURES FOR IDENTIFICATION AND RECOVERY OF      35344  
OVERPAYMENTS

(a) An overpayment of Adoption Assistance Program (AAP) benefits may exist in the following situations:

(1) The adoptive parent receives aid after the child becomes ineligible for assistance because: (Continued)

(B) The adoptive parent is no longer supporting the child.

**HANDBOOK BEGINS HERE**

1. ~~Example: The child moves to the home of an adoptive relative and the adoptive parent does not provide support to the child in the relative's home.~~

2. ~~Example: The adoptive parent fails to utilize assistance being provided to pay the cost of an out of home placement to pay that cost.~~

**HANDBOOK ENDS HERE**

3. ~~The parent may reestablish eligibility by resuming support of the child.~~

(C) (Continued)

(d) (Continued)

**HANDBOOK BEGINS HERE**

(e) ~~Overpayments determined to be caused by an adoptive parent's or out of home care provider's failure to report information may be referred to the county Special Investigative Unit described in MPP Section 22-007.1.~~

**HANDBOOK ENDS HERE**

(e) The county shall not demand overpayment collection when the overpayment was due to county error.

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Sections 16120, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673.

Amend Section 35345 to read:

35345      WHEN NOTICE OF ACTION IS REQUIRED

35345

(a) The agency responsible for authorizing payment shall notify the county responsible for payment by using the Payment Instructions Adoption Assistance Program form (AAP 2) regarding any of the following events which require that the county send the adoptive parent a Notice of Action (NOA): (Continued)

(4) Completion of the ~~recertification~~ reassessment process. (Continued)

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16121.05, Welfare and Institutions Code and Sections 45 CFR, Sections 205.10 and 1355.30.

Repeal Section 35347 to read:

35347        STATUTORY PROVISIONS FOR AAC

35347

- (a) ~~The agency shall follow the provisions of Welfare and Institutions Code Section 16121.05(d) for those adoption assistance agreements which were in effect prior to October 1, 1982.~~

**HANDBOOK BEGINS HERE**

- (1) ~~Welfare and Institutions Code Section 16121.05(d) states:~~

~~"Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement. This aid for adoption of children agreement may be renewed, provided total benefits do not exceed five years. Prior to the end of the five year period, if there is a continuing need related to a chronic health condition of the child which necessitated the initial financial assistance, the time period for which it may be given, shall be determined by the department or the agency but shall not extend past the time that the child reaches 18 years of age. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency, shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child's health condition at the time of adoption, taking into consideration community resources."~~

**HANDBOOK ENDS HERE**

Authority cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code.

Reference: Section 16121.05(d), Welfare and Institutions Code.

Amend Section 35351 to read:

35351      MAINTENANCE OF SEPARATE RECORDS

35351

(a) To maintain confidentiality of the adoption case record, the responsible public agency shall maintain copies of the following documents separate from the adoption case record:  
(Continued)

(3) The following documents relating to the determination of Federal eligibility:  
(Continued)

~~(B) Determination of Federal AFDC-FC Eligibility (FC 3).~~

~~(CB)~~ (Continued)

Authority cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 671 and 673.

Amend Section 35352 to read:

35352 NOTIFICATION REQUIREMENTS FOR AGENCIES

35352

(a) The agency shall inform all applicants that:

- (1) Reimbursement for nonrecurring adoption expenses is available to adoptive parents who adopt an ~~AAP-eligible~~ child who meets the three part special needs determination and citizenship requirements set forth in Section 35326. (Continued)

Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Sections 16119 and 16120, Welfare and Institutions Code and 45 CFR 1356.40 and 1356.41(e); 42 USC 673.

Amend Section 35352.1 to read:

35352.1 ELIGIBILITY FOR REIMBURSEMENT

35352.1

- (a) In order for a claim to be eligible for reimbursement, the responsible public agency shall:  
(Continued)
- (2) Record in the case file that the child for whose adoptive costs the parents are claiming reimbursement ~~is an AAP-eligible child as defined in Section 35000(a)(1)~~ meets the three part special needs determination and citizenship requirements.
- ~~(3) Record in the case file that the placement meets the search requirements of Section 35327.~~
- ~~(43) (Continued)~~
- ~~(54) (Continued)~~
- ~~(65) (Continued)~~
- ~~(76) (Continued)~~
- ~~(87) Limit the maximum reimbursement for nonrecurring adoption expenses to \$400.00 per placement of an AAP-eligible child. (Continued)~~
- ~~(98) Record in the case file that reimbursement for nonrecurring adoption expenses in interstate placements shall conform to the following: (Continued)~~
- ~~(B) Interstate placements which do not comply with the Interstate Compact on the Placement of Children are not eligible for reimbursement.~~

Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.40 and 1356.41; 42 USC 673.

Amend Section 35352.2 to read:

35352.2 AUTHORIZATION FOR REIMBURSEMENT

35352.2

- (a) Pursuant to a determination that a claim for reimbursement for nonrecurring adoption expenses meets the ~~eligibility criteria in Section 35352.1~~ three part special needs determination and citizenship requirements, the responsible public agency shall authorize the appropriate county to reimburse the adoptive parents.
- (1) ~~The county responsible for reimbursement shall be the county responsible for the child's Adoption Assistance Program (AAP) payment.~~
- (A) ~~In cases in which the adoptive parents have elected not to receive AAP payments,~~ The county responsible for reimbursement shall be the county that would otherwise provide the child's AAP payment.
- (A) This reimbursement shall be separate from the child's AAP payment as stated in Welfare and Institutions Code Section 16120.1(d)
- (2) Reimbursement for nonrecurring adoption expenses is contingent upon the ongoing existence of the federal program for these reimbursements as mandated by Welfare and Institutions Code Section 16120.1(c).

Authority cited: Sections 10553, 10554, and 16120.1(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.40 and 1356.41(g); 42 USC 673.

Repeal Section 35352.3 to read:

35352.3 AGENCY REQUIREMENTS FOR REIMBURSEMENTS

35352.3

- (a) ~~The county responsible for the child's Adoption Assistance Program (AAP) payment shall be the county responsible for the direct reimbursement to that child's adoptive parents for their nonrecurring adoption expenses as required by Welfare and Institutions Code Section 16120.1. This reimbursement shall be separate from the child's AAP payment as required by Welfare and Institutions Code Section 16120.1(d).~~

HANDBOOK BEGINS HERE

- (1) ~~Welfare and Institutions Code Section 16120.1, in pertinent part, states:~~

- (A) ~~"Upon the authorization of the department or, where appropriate, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, the responsible county providing adoption assistance program payments shall directly reimburse eligible individuals for reasonable nonrecurring expenses, as defined by the department, incurred as a result of the adoption of a child eligible for the Adoption Assistance Program.... Reimbursements shall conform to the eligibility criteria and claiming procedures established by the department...."~~

- (2) ~~Welfare and Institutions Code Section 16120.1(d) states:~~

- (A) ~~"Reimbursement for nonrecurring expenses shall be in addition to any adoption expenses paid pursuant to Section 16121 and shall not be included in the computation of maximum benefits for which the family is eligible pursuant to Section 16121."~~

HANDBOOK ENDS HERE

- (b) ~~The state shall reimburse counties for payments made to adoptive parents of AAP eligible children as mandated by Welfare and Institutions Code Section 16120.1.~~

HANDBOOK BEGINS HERE

- (1) ~~Welfare and Institutions Code Section 16120.1, in pertinent part, states:~~

- (A) ~~"...The State shall provide payment to the county for the reimbursement...."~~

HANDBOOK ENDS HERE

- (c) ~~Reimbursement for nonrecurring adoption expenses is contingent upon the ongoing existence of the federal program for these reimbursements as mandated by Welfare and Institutions Code Section 16120.1(c).~~

~~HANDBOOK BEGINS HERE~~

- (1) ~~Welfare and Institutions Code Section 16120.1(c), in pertinent part, states:~~

- (A) ~~"...No payments shall be made under this section if the federal program for reimbursement of nonrecurring expenses for the adoption of children eligible for the Adoption Assistance Program pursuant to Section 673 of Title 42 of the United States Code is terminated."~~

~~HANDBOOK ENDS HERE~~

Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code.

Reference: Section 16120.1, Welfare and Institutions Code.

Amend Section 45-801 to read:

45-801      DEFINITIONS

45-801

The definitions specified in Title 22, California Code of Regulations (CCR), Section 35000 shall apply in this chapter.

~~HANDBOOK BEGINS HERE~~

~~.1 CCR Title 22, Section 35000 states in part:~~

- ~~.11 "AAP Eligible Child" means a child who meets the eligibility criteria of Welfare and Institutions Code Section 16120 found in Section 35326.~~
- ~~.12 "Agency" means a licensed California public or private adoption agency, or the department's adoption district offices.~~
- ~~.13 "County" means the income maintenance division in each county welfare department responsible for federal and state eligibility determination and payment of AAP benefits.~~
- ~~.14 "Recertification" means the process by which the agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's circumstances which affect eligibility for and/or duration of and/or amount of adoption assistance payments.~~

~~HANDBOOK ENDS HERE~~

Authority cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 673.

Amend Section 45-802 to read:

45-802 AAP ELIGIBILITY

45-802

- .1 To be eligible for AAP, the child shall meet the requirements under either the federal program or the state program specified in Welfare and Institutions Code Section 16120.
- ~~.11 For purposes of state AAP benefits, the agency shall have determined that the child is an AAP-eligible child who meets the conditions specified in Welfare and Institutions Code Section 16120.~~

HANDBOOK BEGINS HERE

- ~~.111 Welfare and Institutions Code Section 16120 states:~~

~~"A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:~~

- ~~(a) The child has at least one of the following characteristics that are barriers to his or her adoption:~~
  - ~~(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.~~
  - ~~(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to Welfare and Institutions Code Section 4512 subdivision (a), including those determined to require out of home nonmedical care as defined in Welfare and Institutions Code Section 11464.~~
- ~~(b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.~~

- ~~(c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:
 
  - ~~(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency,~~
  - ~~(2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or~~
  - ~~(3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.~~~~
- ~~(d) The child is under 18 years of age, or under 21 years of age and has a mental or physical condition which warrants the continuation of assistance.~~
- ~~(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.~~
- ~~(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.~~
- ~~(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits."~~

~~HANDBOOK ENDS HERE~~

- .12 Adoption Assistance Agreements signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

~~HANDBOOK BEGINS HERE~~

- ~~.121 Welfare and Institutions Code Section 16121.05(b) states:~~

- ~~"(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."~~

~~HANDBOOK ENDS HERE~~

- .13 After the responsible public agency has determined that the child has met the conditions of Welfare and Institutions Code Section 16120, the county shall determine for purposes of federal and state AAP eligibility whether the child meets the requirements of ~~Sections 45-802.131, .132 or .133~~ Welfare and Institutions Code Section 16120 at the time the adoption petition is filed.
- ~~.131 The child shall meet all of the requirements necessary to receive aid under the Supplemental Security Income/State Supplementary Program (SSI/SSP); or~~
- ~~.132 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FC (Title IV-E foster care) program.~~
- ~~(a) A child for whom a facility received a federally funded infant supplement is eligible for federal AAP as long as the conditions of Welfare and Institutions Code Section 16120 are met.~~
- ~~.133 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FG or U program and be placed for adoption with the relative with whom the child has been living.~~

Authority cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16120 and 16121.05(b), Welfare and Institutions Code and 42 USC 673.

Amend Section 45-803 to read:

45-803 COUNTY OF RESPONSIBILITY (Continued)

45-803

- .2 The determination of the county responsible for the actions in Section 45-803.1 shall be made in accordance with Welfare and Institutions Code Section 16118(e).

~~HANDBOOK BEGINS HERE~~

- ~~.21 Welfare and Institutions Code Section 16118(e), in pertinent part, states:~~

~~"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for such a payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."~~

~~HANDBOOK ENDS HERE~~

- .3 (Continued)

Authority cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Section 16118, Welfare and Institutions Code.

Amend Section 45-804 to read:

45-804 PAYMENT

45-804

.1 County Actions and Payment Amount

.11 Upon receipt of the Payment Instructions - Adoption Assistance Program form (AAP 2) and the Eligibility ~~Criteria~~ Certification - Adoption Assistance Program form (AAP 4) from the responsible public agency, the county shall determine whether the child meets the requirement for federal or state AAP eligibility as specified in ~~Section 45-802.13~~ Welfare and Institutions Code Section 16120.

.111 When the child meets the requirements of ~~Sections 45-802.131, .132, or .133~~ Welfare and Institutions Code Sections 16120(j), (m), and (l), FFP shall be claimed in the AAP payment up to the maximum of the AFDC-FC payment for the child if in a foster family home. (Continued)

.113 When a child meets the requirements of ~~MPP Section 45-802.14~~ Welfare and Institutions Code Sections 16120(i) and (l), state participation shall be claimed for the AAP payment up to the amount which would have been paid had the child remained or been placed in foster care. (Continued)

.3 Payee and Delivery (Continued)

.32 Except as provided in .321 below, AAP payments shall be delivered monthly in advance. (Continued)

~~.4~~ ~~Recertification and Restoration of Payment~~

~~.41~~ .323 After initial authorization of payment, the county shall take action to ~~restore~~, increase, ~~suspend~~, decrease, or ~~discontinue~~ terminate payment as instructed by the responsible public agency on the AAP 2.

Authority cited: Sections 10553 and 16118, Welfare and Institutions Code.

Reference: Sections 16121, Welfare and Institutions Code and 42 USC 673.

Amend Section 45-805 to read:

45-805      ~~RECERTIFICATION OF ELIGIBILITY~~ REASSESSMENT

45-805

- .1    The county shall mail the adoptive parent(s) the ~~Recertification~~ Reassessment Information - Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date ~~recertification~~ reassessment is due and shall document in the case record the date such form was mailed.
- .2    ~~Recertification shall be due at the end of the last month of payment specified on the most recent Payment Instructions - Adoption Assistance Program form (AAP 2).~~

HANDBOOK BEGINS HERE

.211 EXAMPLE:    The beginning date of payment is May 13, 1993. ~~Recertification~~ Reassessment is due on April 30, 1995.    The ~~Recertification~~ Reassessment Information form shall be sent to the adoptive parent(s) before March 2, 1995.

HANDBOOK ENDS HERE

- .3    ~~The county shall not provide assistance beyond the end of the last month of payment indicated on the AAP 2 unless continued assistance is authorized by the agency on a subsequent AAP 2.~~
- .31   ~~If the county has not received the AAP 2 by the 10th of the month prior to the date recertification is due, the county is not required to meet the payment time frames specified in Section 45-804.321 but shall meet the time frames specified in Section 45-804.322.~~

Authority cited:    Sections 10553 and 16118, Welfare and Institutions Code.

Reference:            Section 16120.05, Welfare and Institutions Code.

Amend Section 45-806 to read:

45-806 NOTICE OF ACTION

45-806

- .1 The county shall mail the adoptive parent(s) adequate notice as defined in MPP Section 22-001a.(1) after receiving notice from the responsible public agency of any of the following events: (Continued)
- ~~.2 The county shall send adequate notice of action to the adoptive parent with the Recertification Information — Adoption Assistance Program form (AAP 3) stating that assistance will stop on the date recertification is due if recertification is not completed.~~
- ~~.32~~ (Continued)
- ~~.43~~ When county action would result in a ~~discontinuance, suspension, termination~~ or decrease in payment, the county shall mail adequate and timely notice as defined in MPP Sections 22-001a.(1) and 22-001t.(1). Such notice shall be mailed to the adoptive parent(s) at least ten days prior to the effective date of the proposed action.
- ~~.54~~ When the county sends a Notice of Action to the adoptive parent(s), the county shall also send a copy of such notice to the responsible public agency.
- ~~.65~~ (Continued)

Authority cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code.

Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR 205.10 and 1355.30.

Amend Section 45-807 to read:

45-807      MAINTENANCE OF CASE RECORD

45-807

- .1    The county AAP case record shall contain copies of the following: (Continued)
- .13   The Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program form (FC 10) ~~from the agency supporting the determination that the child meets the federal AAP eligibility requirements of Section 45-803.~~
- .14   All Notices of Action sent to the adoptive parent(s) and the ~~adoption~~ responsible public agency.
- .15   ~~The Health Insurance Questionnaire (DHS 6155).~~

Authority cited:   Sections 10553 and 16118, Welfare and Institutions Code.

Reference:        Section 16118, Welfare and Institutions Code.